



## DEPARTMENT OF LABOR

### Mine Safety and Health Administration

#### Petition for Modification of Application of Existing Mandatory Safety Standards

**AGENCY:** Mine Safety and Health Administration, Labor.

**ACTION:** Notice.

**SUMMARY:** This notice is a summary of a petition for modification submitted to the Mine Safety and Health Administration (MSHA) by the party listed below.

**DATES:** All comments on the petition must be received by MSHA's Office of Standards, Regulations, and Variances on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** You may submit comments identified by Docket No. MSHA-2022-0018 by any of the following methods:

1. *Federal eRulemaking Portal:* <https://www.regulations.gov>. Follow the instructions for submitting comments for MSHA-2022-0018.
2. *Fax:* 202-693-9441.
3. *Email:* [petitioncomments@dol.gov](mailto:petitioncomments@dol.gov).
4. *Regular Mail or Hand Delivery:* MSHA, Office of Standards, Regulations, and Variances, 201 12th Street South, Suite 4E401, Arlington, Virginia 22202-5452,

*Attention:* S. Aromie Noe, Acting Director, Office of Standards, Regulations, and Variances.

Persons delivering documents are required to check in at the receptionist's desk in Suite 4E401.

Individuals may inspect copies of the petition and comments during normal business hours at the address listed above. Before visiting MSHA in person, call 202-693-9455 to make an appointment, in keeping with the Department of Labor's COVID-19 policy. Special health precautions may be required.

**FOR FURTHER INFORMATION CONTACT:** S. Aromie Noe, Office of Standards, Regulations, and Variances at 202-693-9440 (voice), [Petitionsformodification@dol.gov](mailto:Petitionsformodification@dol.gov) (email), or 202-693-9441 (fax). [These are not toll-free numbers.]

**SUPPLEMENTARY INFORMATION:** Section 101(c) of the Federal Mine Safety and Health Act of 1977 and Title 30 of the Code of Federal Regulations (CFR) part 44 govern the application, processing, and disposition of petitions for modification.

## **I. Background**

Section 101(c) of the Federal Mine Safety and Health Act of 1977 (Mine Act) allows the mine operator or representative of miners to file a petition to modify the application of any mandatory safety standard to a coal or other mine if the Secretary of Labor determines that:

1. An alternative method of achieving the result of such standard exists which will at all times guarantee no less than the same measure of protection afforded the miners of such mine by such standard; or
2. The application of such standard to such mine will result in a diminution of safety to the miners in such mine.

In addition, sections 44.10 and 44.11 of 30 CFR establish the requirements for filing petitions for modification.

## **II. Petition for Modification**

Docket Number: M-2022-009-M

Petitioner: TATA Chemicals Soda Ash Partners, P.O. Box 551, Green River, Wyoming 82935.

Mine: TATA Chemicals Mine, MSHA ID No. 48-00155, located in Sweetwater County, Wyoming.

Regulation Affected: 30 CFR 57.22305, Approved equipment (III mines).

Modification Request: The petitioner requests a modification of 30 CFR 57.22305 to permit the use of non-MSHA approved electronic total stations/theodolites in or beyond the last open crosscut and where methane may enter the air current.

The petitioner states that:

(a) A Wild/Leica T16 theodolite is used to perform all surveying work in the return and past the last open crosscut. This instrument is becoming obsolete, according to the petitioner's surveying equipment supplier.

(b) There are no MSHA-approved electronic total stations or theodolites.

(c) Electronic total stations allow surveying personnel to measure distances without entering an area. A built-in electronic distance meter allows remote measurement by reflecting light off an object, such as the face, with no reflector. Use of the electronic total stations eliminates miner travel through areas with poor roof or rib conditions and allows measurement in unbolted areas. Station use also significantly reduces surveying personnel's exposure to poor ground conditions.

(d) Nineteen of the 21 electronic total stations/theodolites listed in the petitioner's proposal have an IP (Ingress Progression) 66 rating; two have an IP 65 rating.

(e) The lithium batteries used for the instruments listed in the petitioner's proposal meet the UL 1642 standard or IEC (International Electrotechnical Commission) 62133 standard.

(f) Using the instruments listed in the petitioner's proposal will provide the most accurate and safest means of surveying in methane-containing air and will improve the quality and accuracy of surveys, which will improve the safety of the mining operation.

The petitioner proposes the following alternative method:

(a) Use the following non-MSHA approved electronic total stations/ theodolites under normal mining conditions in or beyond the last open crosscut and where methane may enter the air current:

(1) Sokkia Electronic Total Station Model SET350RX-3

(2) Sokkia Electronic Total Station Model SET350R

(3) Sokkia Electronic Total Station Model SET50RX

(4) Sokkia Electronic Total Station Model SET300

(5) Sokkia Intelligent Measurement Total Station Model iM-100

(6) Sokkia Intelligent Measurement Total Station Model iM-50

(7) Sokkia Compact X-ellence Station CX

(8) Sokkia Compact X-ellence Station CX-60

(9) Topcon Electronic Total Station Model GTS-225

(10) Topcon Electronic Total Station Model GTS-300W

(11) Topcon Digital Theodolite Model DT-270L

(12) Topcon Digital Theodolite Model DT-209L

(13) Topcon Electronic Total Station Model GTS-301D

(14) Topcon Electronic Total Station Model GTS-235W

(15) Topcon Electronic Total Station Model GM-50

(16) Topcon Electronic Total Station Model GM-100

(17) Leica Flexline Total Station Model TS03

(18) Leica Flexline Total Station Model TS07

(19) Leica Flexline Total Station Model TS10

(20) Leica Nova TM60 Monitoring Total Station (IP 65)

(21) Leica Nova TS60 Robotic Total Station (IP 65)

(b) While not in operation, the electronic total station/theodolite will be charged out-by the last open crosscut utilizing the manufacturer's approved battery charger.

(c) The mine surveyor will follow manufacturer's instruction on how to properly inspect the unit to ensure it is in proper working order before using it past the last open crosscut or where methane may enter the air current.

(d) If 1.0 percent or more methane is detected, the procedures in 30 CFR 57.22234 will be followed.

The petitioner asserts that the alternative method proposed will at all times guarantee no less than the same measure of protection afforded the miners under the mandatory standard.

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Song-ae Aromie Noe,

Acting Director,

Office of Standards, Regulations, and Variances.

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